

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
CLERK'S OFFICE

APR 13 2005

SARAH HORTON,

Plaintiff

v.

TSI FENWAY, INC., d/b/a
BOSTON SPORTS CLUBS,

Defendant

Civil Action No. 04-CV-12359-MEL

JOINT STATEMENT PURSUANT TO LR, D. MASS. 16.1(D)

Pursuant to LR, D. Mass. 16(D) and the Court's March 23, 2005 Notice of Scheduling Conference ("Notice"), plaintiff Sarah Horton ("Horton") and defendant TSI Fenway, Inc. ("TSI") hereby submit this joint statement.

I. COMPLIANCE WITH OBLIGATION TO CONFER

Pursuant to LR, D. Mass. 16.1(B), on April 5 and April 7, Laurie Hurtt, counsel for TSI, and Jonathan R. Black, counsel for Horton, conferred for the purpose of:

1. Preparing an agenda of matters to be discussed at the scheduling conference;
2. Preparing a proposed pretrial schedule for the case that includes a plan for discovery;
3. Considering whether they will consent to trial by magistrate judge; and
4. Addressing the prospect of settlement.

As the result of those conferences, Horton and TSI propose the following for the Court's consideration:

II. PROPOSED AGENDA OF MATTERS TO BE DISCUSSED AT SCHEDULING CONFERENCE

Horton and TSI jointly suggest that at the Scheduling Conference the Court and the parties discuss:

1. The parties' proposed discovery plan, including a discovery schedule for experts;
2. The parties' proposed schedule for filing motions and establishing deadlines for other events in the litigation; and
3. The issue of settlement.

III. DISCOVERY PLAN

Horton and TSI will comply with their initial disclosure obligations under Fed. R. Civ. P. 26(a)(1) and LR, D. Mass. 26.2(A) by May 10, 2005.

The parties have agreed to a framework for discovery, but disagree as to the length of the discovery period. The framework is set forth first and the proposed discovery periods follow.

A. Discovery Framework

The parties agree that the discovery event limitations in LR, D. Mass. 26.1(C) will govern.

Horton and TSI respectfully suggest the following discovery framework:

1. Horton and TSI will serve any expert disclosures and expert reports as required by Fed. R. Civ. P. 26(a)(2)(B) sixty days before the close of the discovery period.

Within three weeks of the service of expert disclosures and expert reports, Horton and TSI will serve any rebuttal expert disclosures and rebuttal expert reports.
2. The parties may serve interrogatories, requests for production of documents and

requests for admissions at any time so long as responses would be due by the close of the discovery period.

B. Proposed Discovery Periods

Horton proposes a discovery period of nine months with a discovery deadline of January 28, 2006. TSI proposes a discovery period of six months with a discovery deadline of October 28, 2005.

IV. PHASED DISCOVERY

Given the relatively brief timeframe that the parties have proposed in which to conduct discovery, Horton and TSI do not believe that phased discovery is necessary.

V. PROPOSED SCHEDULE FOR FILING MOTIONS

Horton and TSI suggest that the Court establish a schedule requiring the parties to serve and file any motions to amend the pleadings or to add parties by May 27, 2005. Horton and TSI further propose that any dispositive motions, including those under Fed. R. Civ. P. 56, be served after the close of discovery and no later than thirty days after the close of discovery. The parties agree that oppositions to any motions for summary judgment shall be served and filed within 30 days of service of the motion. The parties agree that any reply brief shall be served and filed within 21 days of service of the opposition.

VI. PROPOSED PRE-TRIAL AND TRIAL DATES

The parties propose that the Court conduct a pre-trial conference 45 days after the Court issues an order on any motions under Fed. R. Civ. P. 56. The parties also propose that the Court conduct any trial of this matter 30 days after the pre-trial conference.

VII. CONSENT TO TRIAL BY MAGISTRATE JUDGE

The parties do not consent to trial by magistrate judge.

VIII. CERTIFICATIONS BY COUNSEL AND THE PARTIES

Attached are the certifications signed by counsel, Horton and an authorized representative of TSI Fenway, Inc. pursuant to LR, D. Mass. 16.1(D)(3)(a) and (b).

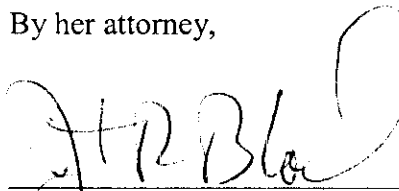
IX. MISCELLANEOUS

The parties agree to serve any papers in this matter by first class mail and either facsimile or e-mail.

Plaintiff,

SARAH HORTON

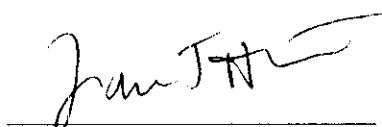
By her attorney,


Jonathan R. Black BBO#044340
99 Derby Street, Suite 200
Hingham, MA 02043
Tel: (781) 556-1010
Fax: (781) 556-1099

Defendant,

TSI FENWAY, INC.

By its attorneys,


Laurie Hurtt, BBO#634149
Greenburg Traurig, LLP
One International Place
Boston, MA 02110
Tel: (617) 310-6000
Fax: (617) 310-6001

and

Brian S. Cousin, admitted
pro hac vice
Greenburg Traurig, LLP
200 Park Avenue
New York, NY 10166
Tel: (212) 801-9354
Fax: (212) 805-9354

Dated: April 18, 2005